

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROSALVA TORRES GALVAN,

Defendant.

No. CR09-0053

**ORDER DENYING MOTION TO
AMEND PLEA AGREEMENT**

This matter comes before the Court on the Motion to Amend Plea Agreement (docket number 54) filed by the Defendant *pro se* on January 6, 2010. Defendant asks that “the sentence be amended to the time served an [*sic*] that the defendant be allowed to apply for and receive a visa to remain in the United States of America.”

On January 6, 2010, Defendant Rosalva Torres Galvan appeared before Chief Judge Linda R. Reade and was sentenced to one year and one day imprisonment following her pleas of guilty to two counts of Fraud or Misuse of Documents and one count of making a False Claim of U.S. Citizenship to Obtain Employment. *See* docket number 55. In sentencing Defendant, the Court agreed to be bound by the parties’ plea agreement, pursuant to FEDERAL RULE OF CRIMINAL PROCEDURE 11(c)(1)(C). Also pursuant to the parties’ agreement, Counts 1, 2, 3, 4, 6, 7, 9, 11, 12, and 13 were dismissed at the time of sentencing.

Later in the day on January 6, the Clerk of Court received and filed the instant “Motion to Amend Plea Agreement.” According to the envelope, the motion was mailed by Alejandro Vazquez-Bonilla (Defendant’s husband) from the Linn County Correctional Center on January 5, 2010. (Vazquez-Bonilla is in United States Marshals’ custody,

awaiting sentencing scheduled on February 20, 2010. *See United States v. Vazquez-Bonilla*, Case No. 1:09-cr-00042-LRR.)

The motion will be denied for several reasons. First, the motion is untimely. Defendant was sentenced earlier in the day on January 6, 2010 and made no objection to the plea agreement, or attempt to withdraw her plea, at that time. Second, the motion is filed *pro se*, while Defendant is represented by counsel. Defendant is not entitled to hybrid representation. *See United States v. Blum*, 65 F.3d 1436, 1443 at n.2 (8th Cir. 1995) (noting that it is Eighth Circuit policy to refuse to consider *pro se* filings when a party is represented by counsel). Third, it does not appear that the motion was prepared by Defendant, and may have been filed without her knowledge and consent. The motion was not signed by Defendant, was mailed by Defendant's husband, and appears to have been prepared by him.¹

ORDER

IT IS THEREFORE ORDERED that the Motion to Amend Plea Agreement (docket number 54) filed by Defendant *pro se* on January 6, 2010 is hereby **DENIED**.

DATED this 14th day of January, 2010.



JON STUART SCOLES
UNITED STATES MAGISTRATE JUDGE
NORTHERN DISTRICT OF IOWA

¹ Compare "Motion to Void Cooperation Agreement and Plea Agreement; and Motion to Dismiss All Counts" filed by Alejandro Vazquez-Bonilla in *United States v. Vazquez-Bonilla*, Case No. 1:09-cr-00042-LRR on January 5, 2010.